

# Notice of Allowability

Application No.

09/388,090

Examiner

S. Devi, Ph.D.

Applicant(s)

JACKSON ET AL.

Art Unit

1645

## -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to Applicants' amendment filed 10/15/03.
  2. ☒ The allowed claim(s) ~~is/are~~ 38, 50-52 and 56, now renumbered as claims 1, 2-4 and 5 respectively.
  3. ☐ The drawings filed on \_\_\_\_\_ are accepted by the Examiner.
  4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
    - a) ☐ All    b) ☐ Some\*    c) ☐ None    of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
- \* Certified copies not received: \_\_\_\_\_.
5. ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
    - (a) ☐ The translation of the foreign language provisional application has been received.
  6. ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application. **THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

7. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
8. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
  - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
    - 1) ☐ hereto or 2) ☐ to Paper No. \_\_\_\_\_.
  - (b) ☐ including changes required by the proposed drawing correction filed \_\_\_\_\_, which has been approved by the Examiner.
  - (c) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No. \_\_\_\_\_.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the margin according to 37 CFR 1.121(d).

9. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

### Attachment(s)

- |  |  |
|--|--|
| 1 <input type="checkbox"/> Notice of References Cited (PTO-892)  | 5 <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 2 <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                | 6 <input type="checkbox"/> Interview Summary (PTO-413), Paper No. _____.   |
| 3 <input checked="" type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No. 122002- | 7 <input checked="" type="checkbox"/> Examiner's Amendment/Comment         |
| 4 <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit of Biological Material             | 8 <input type="checkbox"/> Examiner's Statement of Reasons for Allowance   |
|  | 9 <input type="checkbox"/> Other _____.                                    |

## **ATTACHMENT TO NOTICE OF ALLOWABILITY**

### **Applicants' Amendment**

- 1) Acknowledgment is made of Applicants' amendment filed 10/15/03 in response to the non-final Office Action mailed 07/15/2003.

### **Status of Claims**

- 2) Claims 37, 39, 48 and 49 have been canceled via the amendment filed 10/15/03.  
Claims 50 and 51 have been amended via the amendment filed 10/15/03.  
Claims 38, 50-52 and 56 are pending and are under examination.

### **Rejection(s) Moot**

- 3) The rejection of claim 48 made in paragraph 20 of the Office Action mailed 06/20/02 (paper no. 23) under 35 U.S.C § 112, first paragraph, as being non-enabled, is moot in light of Applicants' cancellation of the claim.
- 4) The rejection of claims 48 and 49 made in paragraph 21(d) of the Office Action mailed 06/20/02 (paper no. 23) under 35 U.S.C § 112, second paragraph, as being indefinite, is moot in light of Applicants' cancellation of the claims.
- 5) The rejection of claims 37 and 39 made in paragraph 21 of the Office Action mailed 07/15/03 under 35 U.S.C § 112, first paragraph, as not providing adequate written description, is moot in light of Applicants' cancellation of the claims.
- 6) The rejection of claim 39 made in paragraphs 22(a) and 22(b) of the Office Action mailed 07/15/03 under 35 U.S.C § 112, second paragraph, as being indefinite, is moot in light of Applicants' cancellation of the claim.
- 7) The rejection of claims 39, 48 and 49 made in paragraph 24 of the Office Action mailed 07/15/03 under 35 U.S.C. § 102(e) as being anticipated by Ruelle (WO 99/55872 - Applicants' IDS), is moot in light of Applicants' cancellation of the claims.
- 8) The rejection of claims 37, 39, 48 and 49 made in paragraph 25 of the Office Action mailed 07/15/03 under 35 U.S.C. § 102(e) as being anticipated by Fraser *et al.* (WO 99/57280 - Applicants' IDS), is moot in light of Applicants' cancellation of the claims.
- 9) The rejection of claims 39, 48 and 49 made in paragraph 26 of the Office Action mailed 07/15/03 under 35 U.S.C. § 102(b) as being anticipated by Regnery *et al.* (WO 9531549) as

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evidenced by Harlow *et al.* (*In: Antibodies: A laboratory Manual*. Cold Spring Harbor Laboratory, Chapter 5, p. 76, 1988) and *Stratagene Product Catalog* (1991), is moot in light of Applicants' cancellation of the claims.

#### **Rejection(s) Withdrawn**

10) The rejection of claims and 50-52 made in paragraph 21 of the Office Action mailed 07/15/03 under 35 U.S.C § 112, first paragraph, as not providing adequate written description, is withdrawn in light of Applicants' amendments to the claims.

11) The rejection of claim 50 made in paragraph 21(e) of the Office Action mailed 06/20/02 (paper no. 23) under 35 U.S.C § 112, second paragraph, as being indefinite, is withdrawn in light of Applicants' amendment to the claim.

12) The rejection of claims 50-52 made in paragraph 22(c) of the Office Action mailed 07/15/03 under 35 U.S.C § 112, second paragraph, as being indefinite, is withdrawn in light of Applicants' amendment to the claims and/or the base claim.

13) The rejection of claims 50-52 made in paragraph 24 of the Office Action mailed 07/15/03 under 35 U.S.C. § 102(e) as being anticipated by Ruelle (WO 99/55872 - Applicants' IDS), is withdrawn in light of Applicants' amendments to the claims and/or the base claim.

14) The rejection of claims 50-52 made in paragraph 25 of the Office Action mailed 07/15/03 under 35 U.S.C. § 102(e) as being anticipated by Fraser *et al.* (WO 99/57280 - Applicants' IDS), is withdrawn in light of Applicants' amendments to the claims and/or the base claim.

15) The rejection of claims 50-52 made in paragraph 26 of the Office Action mailed 07/15/03 under 35 U.S.C. § 102(b) as being anticipated by Regnery *et al.* (WO 9531549) as evidenced by Harlow *et al.* (*In: Antibodies: A laboratory Manual*. Cold Spring Harbor Laboratory, Chapter 5, p. 76, 1988) and *Stratagene Product Catalog* (1991), is withdrawn in light of Applicants' amendments to the claims and/or the base claim.

#### **Remarks**

16) Claims 38, 50-52 and 56, now renumbered as claims 1, 2-4 and 5 respectively are allowed.

17) Papers related to this application may be submitted to Group 1600, AU 1645 by facsimile transmission. Papers should be transmitted via the PTO Fax Center located in Crystal Mall 1. The transmission of such papers by facsimile must conform with the notice published in the Official

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Gazette, 1096 OG 30, November 15, 1989. The CM1 facsimile center's telephone number is (703) 308-4242, which is able to receive transmissions 24 hours a day and 7 days a week. The RightFax number for submission of before-final amendments is (703) 872-9306. The RightFax number for submission of after-final amendments is (703) 872-9307.

**18)** Any inquiry concerning this communication or earlier communications from the Examiner should be directed to S. Devi, Ph.D., whose telephone number is (703) 308-9347. A message may be left on the Examiner's voice mail system. The Examiner can normally be reached on Monday to Friday from 7.15 a.m. to 4.15 p.m. except one day each bi-week, which would be disclosed on the Examiner's voice mail system.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Lynette Smith, can be reached on (703) 308-3909.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0196.

December, 2003

  
S. DEVI, PH.D.  
**PRIMARY EXAMINER**